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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,219	09/25/2006	John Syron	SYRO 0101 PUS	3351

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EXAMINER	
EDWARDS, LAURA ESTELLE	
ART UNIT	**PAPER NUMBER**
1792	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,219	SYRON, JOHN	
	Examiner	Art Unit	
	Laura Edwards	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *25-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the new combination of the substrate layer, mask layer with reverse side with adhesive and exterior side textured as recited in claim 25 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 25-28 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusincovitch et al (US 5,866,220) in view of Jones et al (US 4,420,520).

Rusincovitch et al provide a textured covering or mask for a vehicle body portion (col. 3, lines 44-50) comprising a substrate or release layer (120; Fig. 6B for example) formed of a thin sheet of flexible material; and a mask layer (112) formed of a thin flexible plastic film (col. 4, lines 61-66), a side which is coated with a layer of adhesive (116) which is securely bonded to the mask layer and is capable of being releasably bonding the mask layer to a painted area of a vehicle body, and an exterior which forms a textured finish or surface (118) to which paint can adhere; wherein the masked layer is cut (col. 6, lines 47-52) to correspond to a portion of the vehicle body. Rusincovitch et al are silent concerning the thickness of the mask layer being 1-6 mills. However, it was known in the art, at the time the invention was made, to provide a vehicle body mask layer within the range of 1-6 mills to accommodate different applications and environments as evidenced by Jones et al (col. 4, lines 36-44). In light of the teachings of Jones et al, one of ordinary skill in the art would readily appreciate making the mask layer of

Rusincovitch et al in the range of 1-6 mills to accommodate different applications and environments.

With respect to claims 36 and 37, these claims have been given no patentable weight because these claims recite process limitations and not structural limitations.

Claims 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusincovitch et al (US 5,866,220) and Jones et al (US 4,420,520) as applied to claim 25 above, and further in view of Ochi et al (US 5,008,139).

The teachings of Rusincovitch et al and Jones et al have been mentioned above but neither teach or suggest the mask layer being made from polypropylene or polyethylene. However, it was known in the art, at the time the invention was made, to make a mask layer for a vehicle body from polymers including polypropylene and polyethylene as evidenced by Ochi et al (col. 1, lines 22-30 and col. 7, lines 48-55). In light of the teachings of Ochi et al, it would have been obvious to one of ordinary skill in the art to use a suitable polymeric material (i.e., polypropylene and polyethylene) to make the mask layer in the masking device defined by the combination above in order to protect the vehicle body during painting.

With respect to claims 32 and 33, Rusincovitch et al and Jones et al do not teach or suggest the repositionable/releasable adhesive used in the masking device being made from acrylic and rubber base adhesives. However, it was known in the art, at the time the invention was made, to make a mask device for a vehicle body with repositionable/releasable adhesives wherein the adhesives are acrylic and rubber based as evidenced by Ochi et al (col. 5, lines 35-42). In light of the teachings of Ochi et al, it would have been obvious to one of ordinary skill in

the art to use a suitable acrylic and rubber based adhesive in the masking device defined by the combination above in order to protect the vehicle body such that the adhesive does not damage the painting.

Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusincovitch et al (US 5,866,220) in view of Jones et al (US 4,420,520) and Harrell et al (US .

Rusincovitch et al provide a textured covering or mask layer strip for a vehicle body portion (col. 3, lines 44-50) comprising a substrate or release layer (120; Fig. 6B for example) formed of a thin sheet of flexible material; and a mask layer (112) formed of a thin flexible plastic film (col. 4, lines 61-66), a side which is coated with a layer of adhesive (116) which is securely bonded to the mask layer and is capable of being releasably bonding the mask layer to a painted area of a vehicle body, and an exterior which forms a textured finish or surface (118) to which paint can adhere; wherein the masked layer is cut (col. 6, lines 47-52) from a roll to correspond to a portion of the vehicle body. Rusincovitch et al are silent concerning the layer being 2 to 6 mills in thickness and the mask layer being provided with a series of perforated cuts extending generally across the width of the layer at spaced intervals corresponding in length to the sections of the vehicle body to be masked. However, it was known in the art, at the time the invention was made, to provide a vehicle body mask layer within the range of 2 to 6 mills to accommodate different applications and environments as evidenced by Jones et al (col. 4, lines 36-44). In light of the teachings of Jones et al, one of ordinary skill in the art would readily appreciate making the mask layer of Rusincovitch et al in the range of 2 to 6 mills to accommodate different applications and environments. Also, it was known in the art at the time

the invention was made, to provide a vehicle mask layer with a series of perforated cuts extending generally across the width of the layer at spaced intervals corresponding in length to the sections of the vehicle body to be masked as evidenced by Harrell et al (col. 6, lines 9-25). It would have been obvious to one of ordinary skill in the art to provide a series of perforated cuts extending generally across the width of the masking layer as taught by Harrell et al in the masking device defined by the combination above in order to facilitate masking of discrete parts of the vehicle with minimal cutting and material waste.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Langeman (US 6,284,319) in view of Rusincovitch et al (US 5,866,220) and Jones et al (US 4,420,520).

Langeman provides a method of painting a two-tone vehicle body using a wet on wet process comprising the steps of painting at least a portion of the vehicle body a first color paint; covering the portions of the vehicle body which are to remain the first color paint with a mask to which paint may adhere; applying a second color paint to the unmasked portion of the vehicle body with the second color paint overlapping a portion of the unmasked first color paint with a portion of the second color paint overspraying onto and adhering to the mask layer; and removing the mask layer and any second color paint oversprayed adhered thereto providing a two-tone paint scheme with a relatively thin break line between adjoining paint colors (col. 5, lines 10-25). Langeman is silent concerning the mask being formed of a thin flexible semi-transparent plastic film having a thickness of 1 to 6 mills, a reverse side which is coated with a layer of adhesives securely bonded to the mask layer and removably attachable to the painted area of the vehicle body to be masked, and having an exterior side which forms a textured

surface to which paint may adhere. However, it was known in the art at the time the invention was made, to provide a paint mask formed of a thin flexible semi-transparent plastic film having a reverse side coated with a layer of adhesives securely bonded to the mask layer and removably attachable to the painted area of the vehicle body to be masked, and having an exterior side which forms a textured surface to which paint may adhere as evidenced by Rusincovitch et al. Rusincovitch et al provide a textured covering or mask for a vehicle body portion (col. 3, lines 44-50) comprising a substrate or release layer (120; Fig. 6B for example) formed of a thin sheet of flexible material; and a mask layer (112) formed of a thin flexible plastic film (col. 4, lines 61-66), a side which is coated with a layer of adhesive (116) which is securely bonded to the mask layer and is capable of being releasably bonding the mask layer to a painted area of a vehicle body, and an exterior which forms a textured finish or surface (118) to which paint can adhere; wherein the masked layer is cut (col. 6, lines 47-52) to correspond to a portion of the vehicle body. It would have been obvious to one of ordinary skill in the art to utilize the mask device as taught by Rusincovitch et al in the two tone painting process of Langeman in order to mask the vehicle portion being painted yet prevent damage to the already painted surface. Even though neither Langeman nor Rusincovitch et al disclose the mask having a thickness of 1-6 mills, it was known in the art, at the time the invention was made, to provide a vehicle body mask layer within the range of 1-6 mills to accommodate different applications and environments as evidenced by Jones et al (col. 4, lines 36-44). In light of the teachings of Jones et al, one of ordinary skill in the art would readily appreciate making the mask layer used in the process defined by the combination above in the range of 1-6 mills since such range is sufficient to protect the painted surface yet accommodate different applications and environments.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent discloses the state of the art with respect to a textured mask including plural polymeric layers without the need for an adhesive there between: Ghiam et al (US 6,040,046).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura Edwards/
Primary Examiner
Art Unit 1792

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February 12, 2008